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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,688	09/23/2000	Christopher Charles McCormick	Indigo 1	4264

22897 7590 06/06/2006

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EXAMINER	
WARDEN, JILL ALICE	

ART UNIT	PAPER NUMBER
1743	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/668,688	MCCORMICK ET AL.	
	Examiner	Art Unit	
	Jill A. Warden	1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *20,22-32 and 34-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *20, 22-32 and 34-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 20, 24, 26, 28, 29, 31, 32, 34 and 36-38 are rejected under 35 U.S.C. 102(e) as being anticipated by De La Motte, et al.

De La Motte, et al. teach a system and method for the sale of goods through a trading network which interfaces buyers and suppliers. The interfacing data base also interfaces with an independent quality control monitoring organization which tests products from the suppliers and gives standardized ratings for those products (paragraphs [0021], [0027]). A prospective buyer makes an inquiry to the interfacing database specifying suitable specifications. The interfacing database takes the specifications and determines which suppliers have that product for sale. Once the suppliers are determined, those suppliers are given an opportunity, through the interface database, to submit a bid to the buyer (para. [0042-0044]). The final purchase transaction is also handled through the interface database.

With respect to claim 24, the product ratings are standardized by an independent monitoring organization.

With respect to claim 26, all data is stored in the database system, which stores the analysis for multiple products.

With respect to claims 29 and 32, the database system stores all transaction data also (para [0034]).

With respect to claim 36, the interface database allows the buyer opportunity to designate some specifications as being more important than others (para [0079]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 22, 23, 25, 27, 30, 35, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over De La Motte, et al.

De La Motte, et al. do not specifically teach:

Outputting statistics to a subscriber,

Pricing below a normal selling price,

Updating analysis data for a product, or

Specifying a range of values for the specifications.

De La Motte, et al. provide for compilation of statistics and dissemination of those statistics to its buyer and supplier subscribers. It would appear that membership to the service would avail you to the statistics. It would have been obvious to provide those statistics to any subscriber who has an interest in product trends, pricing, quality, etc.

With respect to pricing, De La Motte, et al. teach that suppliers may bid for the right to sell to a buyer. It is conventional in the buying and selling process to meet or undercut your competitors price. It would have been obvious to one of ordinary skill in the art that suppliers in the database system would provide competitive pricing in order to win a prospective sale.

With respect to analysis updates to account for different batches, it would have been obvious to one of ordinary skill in the art that a supplier would need to update analysis of his product given a change in processing conditions which would change the rating of the product.

With respect to data supplied to the buyer, De La Motte, et al. does not provide for "white-washing" the data. That is, the product data supplied to the buyer does

indeed include the name of the supplier. However, it is certainly within the abilities of the interface database system for the buyer to display only that information which is agreeable to him. It would have been obvious to one having ordinary skill in the art to omit product suppliers names from a list of bids in order to make a choice solely on product ratings, absent any prejudice to a particular supplier or brand.

Response to Arguments

Applicant's arguments filed November 9, 2005 have been fully considered but they are not persuasive. Applicants argue that De La Motte does not teach analysis corresponding to specific lots of a suppliers product, only statistical sampling. Applicants' claim specifies analysis of "batches." Clearly, any sample supplied for analysis is considered a "batch." Applicant states that there is no guarantee that a specific product actually purchased has ever been analyzed. Examiner would agree with that statement. However, a supplier would give particular information to the testing facility about when a particular product was made. This would provide not only statistical sampling, but also data representative of particular production batches.

Applicant further argues that De La Motte's server does not compare a purchasers requirement with test data. Examiner disagrees. The interfacing database makes a comparison of the analysis data with a purchaser's specifications to determine who has their needed product available for purchase.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jill A. Warden at telephone number (571) 272-1267.

Jill A. Warden
SPE
Art Unit 1743